FRIEDMAN, FRIEDMAN,
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE WORLD TRADE CENTER DISASTER SITE LITIGATION	**21 MC 100 (AKH)** **AFFIRMATION IN RESPONSE TO MOTION OF WGENB, LLP FOR COMMON BENEFIT FEES**

MARIANGELA CHIARAVALLOTI, an attorney admitted to practice law before this Court, affirms the following under the penalty of perjury:

1. This affirmation is made in opposition to the application of Worby Groner Edelman & Napoli Bern, LLP (hereinafter WGE&NB) for common benefit fees.

2. I represent seventeen (17) World Trade Center plaintiffs. I have participated in every stage of this litigation. I have attended almost all the conferences held in open Court and reviewed every email and piece of correspondence that has crossed my desk. I have attended hearings, reviewed motions and kept abreast of all developments and whenever possible have tried to contribute.

3. I have been in continuous contact with co-liaison counsel, Sullivan, Papain, Block, McGrath & Cannavo, P.C , throughout the litigation. I have shared certain information and documentation with the plaintiffs' liaison counsel early in the litigation,

which was helpful to the liability issues.

4. As to the common benefit fee issue, unlike other mass tort cases of the past, this litigation is not a class action, and provision for a common benefit fund allocation was never made and preserved by the movant. Usually, a fund is set-up from inception of the litigation because it is understood that certain firms will take the lead and act, **at all times**, for the common benefit of all the plaintiffs. That never happened here.

5. While WGE&NB certainly represented their clients magnificently, the interests of the rest of us benefitted incidently,and in part to our detriment. WGE&NB exerted no greater effort and incurred no higher expense in their representation, simply because of the few hundred other cases they did not represent. WGE&NB deserves every dollar in fees that they have earned on behalf of their clients, but do not deserve to dip into our already reduced pot.

6. As this Court is already aware, the non-WGE&NB represented cases, have suffered a loss in negotiating with the Port Authority because WGE&NB completely shut us out of those negotiations, and as a consequence of the Zadroga legislation, we cannot independently negotiate with the Port Authority without prejudicing our clients' Zadroga eligibility. Clearly common benefit was the last thing on our collegues' minds.

7. In addition, there are aspects of the WTC Settlement Agreement that sets cut-offs that had our common interests been of any concern to WGE&NB we could have better protected our clients. For instance, the 3/10/2010 medical record cut-of was a

secret to us, but clearly information available to WGE&NB. Presumably, they took steps to insure that their clients' records and testing fit the defendants' diagnostic and eligibility criteria so they could maximize their recoveries, we were not so fortunate.

8. When is enough, enough for this firm. Their common benefit expenses application, which was later withdrawn against Sullivan, Papain, Block, McGrath & Cannavo, P.C., shocked the conscious as well as the public. Their effort to recoup financing costs was equally appalling. Now, they come after us, a silent small minority, who have already consented to the Court's recommendation of an attorneys' fee reduction, who rallied their clients to support the terms of the Settlement Agreement and who have diligently represented their clients for years, without fanfare or public acknowledgment. We are not seeking anything more than our due.

9. The 5% request by WGE&NB is excessive and unwarranted. My 17 cases make up less than 1% of the total claimants. In fact, in total, the cases subject to this application may not represent more than 1%.

10. In view of the foregoing, it is respectfully requested that there be no common benefit fund established in this docket.

In the alternative, should the Court, in its discretion, determine that a common benefit fund is appropriate, then it is respectfully requested that a hearing be held to ascertain whether other counsel should be entitled to any monies from this fund.

Pursuant to 28 U.S.C.§1746, I declare under the penalties of perjury that the foregoing is true and correct, except to those things stated upon information and belief and as to those things, I believe them to be true. Executed this 28th day of January, 2011.

FRIEDMAN, FRIEDMAN,
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By: ______________________
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